

PROPOSITION 102

OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1007

REQUESTING THE SECRETARY OF STATE TO RETURN SENATE CONCURRENT RESOLUTION 1018, FORTY-THIRD LEGISLATURE, FIRST REGULAR SESSION, TO THE LEGISLATURE AND SUBMIT THE PROPOSITION CONTAINED IN SECTIONS 3, 4 AND 5 OF THIS RESOLUTION OF THE PROPOSED AMENDMENTS TO ARTICLE IX, SECTION 7, ARTICLE X, SECTION 7 AND ARTICLE XI, SECTION 8, CONSTITUTION OF ARIZONA, TO THE VOTERS; RELATING TO INVESTMENT OF STATE MONIES.

TEXT OF PROPOSED AMENDMENT

Whereas, pursuant to Article XXI, Constitution of Arizona, the Forty-third Legislature, First Regular Session, presented Senate Concurrent Resolution 1018 to the Secretary of State for submission of an amendment of Article X, section 7, Constitution of Arizona, to the voters at the next general election; and

Whereas, no general election having occurred, the proposition has not yet been presented to the voters; and

Whereas, on further consideration, the Legislature has determined that the subject of the proposed constitutional amendment, the investment of monies in the state land trust funds, should be addressed in another manner.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. The Legislature of the State of Arizona respectfully requests pursuant to section 41-121, paragraph 1, Arizona Revised Statutes, that the Secretary of State return Senate Concurrent Resolution 1018, Forty-third Legislature, First Regular Session, to the Legislature.

2. The Secretary of State shall submit the proposition contained in sections 3, 4 and 5 of this Resolution to the voters at the next general election as provided by Article XXI, Constitution of Arizona, in lieu of Senate Concurrent Resolution 1018.

3. Article IX, section 7, Constitution of Arizona is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

7. Gift or loan of credit; subsidies; stock ownership; joint ownership

Section 7. Neither the state, nor any county, city, town, municipality, or other subdivision of the state shall ever give or loan its credit in the aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or become a joint owner with any person, company, or corporation, except as to such ownerships as may accrue to the state by operation or provision of law OR AS AUTHORIZED BY LAW SOLELY FOR INVESTMENT OF THE MONIES IN THE VARIOUS FUNDS OF THE STATE.

4. Article X, section 7, Constitution of Arizona is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

Spelling, grammar, and punctuation were reproduced exactly as submitted in the "for" and "against" arguments.

7. Establishment of permanent funds; segregation, investment and distribution of monies

Section 7. A. A separate PERMANENT fund shall be established for each of the several objects for which the said grants are made and confirmed by the said enabling act to the state, and whenever any ~~moneys~~ MONIES shall be in any manner derived from any of said lands, the same shall be deposited by the state treasurer in the PERMANENT fund corresponding to the grant under which the particular land producing such ~~moneys~~ MONIES was, by said THE enabling act, conveyed or confirmed.

B. No ~~moneys~~ MONIES shall ever be taken from one PERMANENT fund for deposit in any other, or for any object other than that for which the land producing the same was granted or confirmed. ~~The state treasurer shall keep all such moneys invested in safe, interest-bearing securities, which securities shall be approved by the governor and secretary of state, and shall at all times be under a good and sufficient bond or bonds conditioned for the faithful performance of his duties in regard thereto.~~

C. ALL SUCH MONIES SHALL BE INVESTED IN SAFE INTEREST-BEARING SECURITIES AND PRUDENT EQUITY SECURITIES CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

D. THE LEGISLATURE SHALL ESTABLISH A BOARD OF INVESTMENT TO SERVE AS TRUSTEES OF THE PERMANENT FUNDS. THE BOARD SHALL PROVIDE FOR THE MANAGEMENT OF THE ASSETS OF THE FUNDS CONSISTENT WITH THE FOLLOWING CONDITIONS:

1. NOT MORE THAN SIXTY PER CENT OF A FUND AT COST MAY BE INVESTED IN EQUITIES AT ANY TIME.

2. EQUITIES THAT ARE ELIGIBLE FOR PURCHASE ARE RESTRICTED TO STOCKS LISTED ON ANY NATIONAL STOCK EXCHANGE OR ELIGIBLE FOR TRADING THROUGH THE UNITED STATES NATIONAL ASSOCIATION OF SECURITIES DEALERS AUTOMATED QUOTATION SYSTEM, OR SUCCESSOR INSTITUTIONS, EXCEPT AS MAY BE PROHIBITED BY GENERAL CRITERIA OR BY A RESTRICTION ON INVESTMENT IN A SPECIFIC SECURITY ADOPTED PURSUANT TO THIS SUBSECTION.

3. NOT MORE THAN FIVE PER CENT OF ALL OF THE FUNDS COMBINED AT COST MAY BE INVESTED IN EQUITY SECURITIES ISSUED BY THE SAME INSTITUTION, AGENCY OR CORPORATION, OTHER THAN SECURITIES ISSUED AS DIRECT OBLIGATIONS OF AND FULLY GUARANTEED BY THE UNITED STATES GOVERNMENT.

E. IN MAKING INVESTMENTS UNDER THIS SECTION THE STATE TREASURER AND TRUSTEES SHALL EXERCISE THE JUDGMENT AND CARE UNDER THE PREVAILING CIRCUMSTANCES THAT AN INSTITUTIONAL INVESTOR OF ORDINARY PRUDENCE, DISCRETION AND INTELLIGENCE EXERCISES IN MANAGING LARGE INVESTMENTS ENTRUSTED TO IT, NOT IN REGARD TO SPECULATION, BUT IN REGARD TO THE PERMANENT DISPOSITION OF MONIES, CONSIDERING THE PROBABLE SAFETY OF CAPITAL AS WELL

AS THE PROBABLE TOTAL RATE OF RETURN OVER EXTENDED PERIODS OF TIME.

F. THE EARNINGS, INTEREST, DIVIDENDS AND REALIZED CAPITAL GAINS AND LOSSES FROM INVESTMENT OF A PERMANENT FUND, SHALL BE CREDITED TO THAT FUND.

G. THE BOARD OF INVESTMENT SHALL DETERMINE THE AMOUNT OF THE ANNUAL DISTRIBUTIONS REQUIRED BY THIS SECTION AND ALLOCATE DISTRIBUTIONS PURSUANT TO LAW. BEGINNING JULY 1, 2000 AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AMOUNT OF THE ANNUAL DISTRIBUTION FROM A PERMANENT FUND ESTABLISHED PURSUANT TO THIS SECTION IS THE AMOUNT DETERMINED BY MULTIPLYING THE FOLLOWING FACTORS:

1. THE AVERAGE OF THE ANNUAL TOTAL RATE OF RETURN FOR THE IMMEDIATELY PRECEDING FIVE COMPLETE FISCAL YEARS LESS THE AVERAGE OF THE ANNUAL PERCENTAGE CHANGE IN THE GDP PRICE DEFLATOR, OR A SUCCESSOR INDEX, FOR THE IMMEDIATELY PRECEDING FIVE COMPLETE FISCAL YEARS. FOR PURPOSES OF THIS PARAGRAPH:

(a) "ANNUAL TOTAL RATE OF RETURN" MEANS THE QUOTIENT OBTAINED BY DIVIDING THE AMOUNT CREDITED TO A FUND PURSUANT TO SUBSECTION F FOR A COMPLETE FISCAL YEAR, PLUS UNREALIZED CAPITAL GAINS AND LOSSES, BY THE AVERAGE MONTHLY MARKET VALUE OF THE FUND FOR THAT YEAR.

(b) "GDP PRICE DEFLATOR" MEANS THE GROSS DOMESTIC PRICE DEFLATOR REPORTED BY THE UNITED STATES DEPARTMENT OF COMMERCE, BUREAU OF ECONOMIC ANALYSIS, OR ITS SUCCESSOR AGENCY.

2. THE AVERAGE OF THE MONTHLY MARKET VALUES OF THE FUND FOR THE IMMEDIATELY PRECEDING FIVE COMPLETE FISCAL YEARS.

H. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE ANNUAL DISTRIBUTION FROM THE PERMANENT FUNDS FOR FISCAL YEARS 1999-2000 THROUGH 2002-2003 SHALL BE AS FOLLOWS:

1. FOR FISCAL YEAR 1999-2000, THE GREATER OF FIVE PER CENT OF THE AVERAGE OF THE MONTHLY MARKET VALUES OF THE FUNDS FOR FISCAL YEARS 1994-1995 THROUGH 1998-1999 OR THE AVERAGE OF ACTUAL ANNUAL DISTRIBUTIONS FOR FISCAL YEARS 1994-1995 THROUGH 1998-1999.

2. FOR FISCAL YEARS 2000-2001 THROUGH 2002-2003, THE GREATER OF THE AVERAGE OF THE ACTUAL ANNUAL DISTRIBUTIONS FOR THE IMMEDIATELY PRECEDING FIVE COMPLETE FISCAL YEARS OR THE AMOUNT OF THE DISTRIBUTION REQUIRED BY SUBSECTION G.

5. Article XI, section 8, Constitution of Arizona is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

8. Permanent state school fund; source: apportionment of state funds

Spelling, grammar, and punctuation were reproduced exactly as submitted in the "for" and "against" arguments.

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Section 8. A. A permanent state school fund for the use of the common schools shall be derived from the sale of public school lands or other public lands specified in the enabling act approved June 20, 1910; from all estates or distributive shares of estates that may escheat to the state; from all unclaimed shares and dividends of any corporation incorporated under the laws of Arizona; and from all gifts, devises, or bequests made to the state for general educational purposes.

B. ~~The income derived from the investment of the permanent state school fund, and from the~~ rental derived from school lands, with such other funds as may be provided by law shall be apportioned only for common and high school education in Arizona, and in such manner as may be prescribed by law.

FINAL VOTE CAST BY THE LEGISLATURE ON SCR 1009

House -	Ayes, 36	Senate -	Ayes, 16
	Nays, 18		Nays, 14
	Not Voting, 6		Not Voting, 0

Senate concurs in House Amendments and Final Passage

Ayes, 22
Nays, 7
Not Voting, 1

ANALYSIS BY LEGISLATIVE COUNCIL

(In Compliance With A.R.S. Section 19-124)

In 1910, the United States Congress passed the Arizona-New Mexico Enabling Act, allowing Arizona to become a state. The Enabling Act granted the new state millions of acres of land to be held in trust to support various public institutions (schools, colleges, prisons, etc.). If the "trust" lands are rented, the rent income is paid out as provided by law. If trust land is sold, the proceeds of the sale are placed in a permanent trust fund. The permanent fund can be invested only in "interest-bearing securities", such as bonds and bank accounts, and the interest from the investments is used to support the appropriate institution.

Proposition 102 would amend several sections of the Arizona Constitution to expand the investment options for money in trust funds of the state and allow them to be invested in equity securities, such as stocks, as well as interest-bearing securities.

The permanent trust funds would be managed by a Board of Investment under the following conditions:

1. Not more than 60% of a permanent fund could ever be invested in equities.
2. Only stocks that are listed on any national stock exchange or that are eligible for trading through the United States National Association of Securities Dealers Automated Quotation System could be purchased.
3. Not more than 5% of all of the permanent funds combined could be invested in equities issued by the same entity unless issued and guaranteed by the United States government.

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The State Treasurer and Board of Investment would not be allowed to make speculative investments but would be required to use the standard of investment known as "the prudent investor rule".

The Board of Investment would pay money out of the permanent funds to the designated state institutions in an amount limited to a percentage of each fund's five-year average market value.

In order for this proposal to become fully operative, the United States Congress will also have to amend the state Enabling Act to allow all earnings, including capital gains and dividends as well as interest, to be distributed from the permanent funds to the trust beneficiaries.

ARGUMENT "FOR" PROPOSITION 102

Since the depths of the Great Depression in 1932, despite four major wars, ongoing civil strife and extended inflationary and recessionary periods, the Dow Jones Industrial Average has increased by 220 times. In contrast, returns on fixed income investments have been less than half that amount. The message is clear for this period and over the course of our history in general--returns on stocks have in fact exceeded returns on bonds. While there is no guarantee, we can say with near certainty that over any future period of extended duration, stocks will outperform bonds.

The Enabling Act granted statehood to Arizona in 1912. At the same time, it granted the state land trust for operation of our schools, but restricted trust investments to fixed income securities. It was not until 1958 that the Enabling Act was amended to authorize equity investments for the trust. New Mexico, by taking advantage of equity authority since 1988 has reaped an average annual return of 13-14%. Due in part to those returns, its land trust stands as the third largest endowment fund in the nation, second only to Harvard University and the Texas State Land Trust. Unfortunately, Arizona has not moved to profit from equity investing. This is something which is long overdue.

This is your chance to put the Arizona State Land Trust on track for a rational and systematic investment policy overseen by the State Board of Investment and implemented by professional equity managers to maximize returns while minimizing risk to the taxpayers of Arizona. Seize this opportunity. It will not be available to you again anytime soon.

Tony West, Chairman, Board of
Investment
Arizona State Treasurer
Phoenix

Alan E. Maguire, Board of Investment
President
The Maguire Company
Phoenix

Elliott Hibbs, Board of
Investment
Arizona Department of
Administration
Phoenix

Marsha Bonham, Board of
Investment
Treasurer
Cochise County
Bisbee

Paid for by William A. West, Jr.

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"for" and "against" arguments.*

ARGUMENT “FOR” PROPOSITION 102

Recent historical total returns in excess of 10% on stocks (equities) have consistently exceeded returns of 6-7% on bonds (fixed-income investments), yet the Arizona Constitution restricts the State Land Trust to fixed-income investments. The Joint Legislative Budget Committee calculates that a mix of 65% equities and 35% high quality bonds from 1980-1996 would have earned an additional \$320.9 million for our schools.

Congress granted New Mexico equity authority by amendment of the Enabling Act in 1957. Indicative of the returns which equities can bring to Arizona's Land Trust is New Mexico's average annual return of 13-14% since 1988. Returns of that magnitude will essentially double earnings for trusts which are restricted to fixed-income investments. Recognizing this potential, Arizona seeks to join a trend among the states to authorize equity investments for their trusts. Recently West Virginia joined South Carolina and Indiana which previously overturned bans on equity investing.

This proposition will strike down an anachronistic mandate which was created to address a very different economic and regulatory environment. Today it only offers false assurances. Until that mandate is changed, Arizona will have to settle for less-than-optimum investment returns for our school children. If voters approve this proposition, the Board of Investment will oversee professional money managers who will manage investments on a total rate of return basis to improve the quality of education for our children and insure the long term viability of the trust. A “yes” vote and ultimate endorsement by the Congress of the United States will help future generations of Arizona's children without imposing additional burdens on today's taxpayers. This is a rare, real and substantial opportunity which the voter and taxpayer should exercise in their own interests and those of the children of Arizona.

Tony West
Arizona State Treasurer
Phoenix

ARGUMENT “FOR” PROPOSITION 102

I urge you to vote “yes” for Proposition 102. A vote for Proposition 102 is a vote to increase the monies available for public education at no cost to the taxpayer.

Can you imagine if you were limited to investing your retirement monies or your savings in just interest-bearing accounts? What if you could have earned only 7 - 8% per year on average over the past two decades, and not the 13 - 14% you have come to enjoy through investing in mutual funds that can place a portion of their investments in the stock market?

This is what has happened with the investment of monies in our permanent land trust funds. These are monies derived from the sale of State Trust Lands that were given to Arizona by the federal government when Arizona became a state 86 years ago. Over 90% of trust lands are held in trust for the benefit of our elementary and secondary public education system. If, over the past two decades, the permanent land trust funds had been invested in the same manner as the Arizona State Retirement System invests its funds, the permanent land trust funds -- valued at nearly \$900 million -- would be worth roughly \$500 million more.

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Proposition 102

We safely can earn a far greater rate of return on these investments, while simultaneously protecting these assets for future generations of Arizonans. In fact, under Proposition 102, the higher earnings will be used in part to provide inflation-protection for the principle portion of the trust funds.

Please vote “yes” on Proposition 102. Your children and grandchildren will be glad you did.

Jane Dee Hull
Governor
Phoenix

ARGUMENT “AGAINST” PROPOSITION 102

The Secretary of State did not receive arguments against Proposition 102.

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“for” and “against” arguments.*

BALLOT FORMAT

PROPOSITION 102

**PROPOSED AMENDMENT TO THE CONSTITUTION
BY THE LEGISLATURE**

OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1007
REQUESTING THE SECRETARY OF STATE TO RETURN SENATE CON-
CURRENT RESOLUTION 1018, FORTY-THIRD LEGISLATURE, FIRST
REGULAR SESSION, TO THE LEGISLATURE AND SUBMIT THE PROPO-
SITION CONTAINED IN SECTIONS 3, 4 AND 5 OF THIS RESOLUTION OF
THE PROPOSED AMENDMENTS TO ARTICLE IX, SECTION 7, ARTICLE
X, SECTION 7 AND ARTICLE XI, SECTION 8, CONSTITUTION OF ARI-
ZONA, TO THE VOTERS; RELATING TO INVESTMENT OF STATE MON-
IES.

DESCRIPTIVE TITLE

AMENDING ARIZONA CONSTITUTION TO EXPAND INVESTMENT
OPTIONS FOR STATE TRUST FUNDS, ALLOWING INVESTMENT IN
EQUITY SECURITIES, SUCH AS STOCKS. BOARD OF INVESTMENTS
WOULD MANAGE FUNDS UNDER CONDITIONS SET OUT IN CONSTI-
TUTION; REQUIRING INVESTMENT ACCORDING TO “THE PRUDENT
INVESTOR RULE”; PERMITTING CERTAIN PAYMENTS OUT OF PERMA-
NENT FUNDS TO DESIGNATED STATE INSTITUTIONS.

PROPOSITION 102

A “yes” vote shall have the effect of amending the Arizona Con- stitution to expand investment options for State Trust funds, allowing investment in equity securities, requiring investment according to “the prudent investor rule,” and permitting pay- ments from the permanent funds to designated state institutions.	YES <input type="checkbox"/>
A “no” vote shall have the effect of retaining the current invest- ment options for State Trust funds.	NO <input type="checkbox"/>

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“for” and “against” arguments.*